

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

IOVATE HEALTH SCIENCES U.S.A., INC.,  
IOVATE HEALTH SCIENCES INTERNATIONAL, INC.,  
IOVATE T & P, INC.,  
FLAMMA SpA, and  
USE TECHNO CORPORATION,

Plaintiffs,

v.

C.A. No. 07-286-JJF

WELLNX LIFE SCIENCES INC. (d/b/a NV INC.),  
NXCARE INC.,  
NXLABS INC.,  
SLIMQUICK LABORATORIES,  
BIOGENETIX,  
DEREK WOODGATE, and  
BRADLEY WOODGATE,

Defendants.

**PLAINTIFFS' RESPONSE TO INDIVIDUAL DEFENDANTS'  
MOTION TO DISMISS FOR LACK OF PERSONAL JURISDICTION**

Plaintiffs hereby respond to Individual Defendants' Motion To Dismiss for Lack of Personal Jurisdiction. (D.I. 13) As set forth herein, in order to competently respond to the allegations set forth in Defendants' motion to dismiss, Plaintiffs request that the Court grant limited discovery concerning whether Defendants Derek and Bradley Woodgate are subject to personal jurisdiction in Delaware.

On May 24, 2007, Plaintiffs Iovate Health Sciences U.S.A., Inc., Iovate Health Sciences International, Inc., Iovate T & P, Inc., FLAMMA SpA, and Use Techno Corporation, filed a patent infringement action against Defendants Wellnx Life Sciences Inc., (d/b/a NV Inc.), NxCare Inc., Nxlabs Inc., Slimquick Laboratories, Biogenetix, Derek Woodgate, and Bradley Woodgate. (D.I. 1) Thereafter, the parties agreed and stipulated that Defendants would be

allowed additional time in which to answer the complaint. (D.I. 12) On July 16, 2007, the individual defendants, Bradley and Derek Woodgate, filed a motion to dismiss for lack of personal jurisdiction. (D.I.13) In response to the motion to dismiss, Plaintiffs' counsel contacted Defendants' counsel to request limited jurisdictional discovery in order to competently respond to the motion to dismiss. On Thursday, July 19, the parties held a meet and confer regarding Defendants' motion and whether Defendants would agree to permit limited jurisdictional discovery. At the meet and confer, Defendants refused to grant any discovery. Therefore, on Monday, July 27, Plaintiffs filed a Motion For Enlargement of Briefing Schedule In Order to Permit Jurisdictional Discovery Necessary to Respond To Defendants' Motion to Dismiss (D.I. 20), a copy of which is attached hereto.

On August 2, 2007, Plaintiffs received notice that based upon the Court's standing orders, Plaintiffs' Motion for Enlargement of Briefing Schedule In Order to Permit Jurisdictional Discovery Necessary to Respond to Defendants' Motion to Dismiss was stricken. As set forth herein, and more fully set forth in Plaintiffs' previously filed motion attached hereto, Plaintiffs have a need for discovery in order to appropriately respond to Defendants' motion to dismiss.<sup>1</sup>

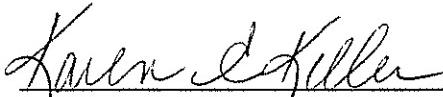
At this time, Plaintiffs are unable to competently respond to Defendants' motion to dismiss, which included sworn declarations submitted by Derek and Bradley Woodgate. Plaintiffs seek limited discovery with regard to these defendants. Without the necessary, and limited, jurisdictional discovery sought herein, Plaintiffs believe that they will be prejudiced from fully responding to Defendants' motion to dismiss.

Therefore, Plaintiffs request that the Court permit limited discovery concerning personal jurisdiction over these defendants in Delaware.

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<sup>1</sup> If the Court would prefer, plaintiffs will re-file their motion on the appropriate date in order to comply with the Court's guidelines.

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**CERTIFICATE OF SERVICE**

I, Karen E. Keller, Esq., hereby certify that on August 2, 2007, the foregoing document was electronically filed with the Clerk of the Court using CM/ECF, which will send notification that such filing is available for viewing and downloading to the following counsel of record:

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Additionally, I hereby certify that the foregoing document was served by hand-delivery and e-mail upon the above-listed counsel and on the following counsel as indicated.

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